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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/563,319

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Caroline Jacobson

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EXAMINER

DOAN, PHUOC HUU

ART UNIT

PAPER NUMBER

2617

MAIL DATE

DELIVERY MODE

12/16/2010

PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/563,319

**Applicant(s)**

JACOBSON, CAROLINE

**Examiner**

PHUOC DOAN

**Art Unit**

2617

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 02 December 2010.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-18 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 8 is/are allowed.
- 6) ☒ Claim(s) 1, 2, 4-7 and 9-18 is/are rejected.
- 7) ☒ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-940)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## **DETAILED ACTION**

### **Continued Examination Under 37 CFR 1.114**

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 12/02/2010 has been entered.

### **Claim Rejections - 35 USC § 103**

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-2, 4-7, 9-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Schwarz (US Pub No. 2007/0264994) in view of Lucidarme (US Patent No. 7,123,910).

**As to claim 1**, SCHWARZ discloses a first cellular mobile communication network “Fig. 2B, items 12 UTRAN” providing

communication services to one or more user equipments (Fig. 2B, items 10 UE), the network comprising: in a network unit configured to control (par [0022] “universal terrestrial radio access network (UTRAN) 12, and a radio network controller (RNC) 14) a user equipment (par [0021-0022] “ RNC 14 controlled by determines from the RRC connection request in response to UE 10”), the network unit providing means for including an information element within a communication message to said user equipments to indicate the availability status of at least a range of services that are provided by said first communication network (par [0021-0025] “the RNC 14 determines, in response to the UE based on the condition such as service delay, quality of service provided to UE whether to operate in network UTRAN 12 or in another network”). However, Schwarz unclearly discloses range of services wherein more than one services. Lucidarme clearly discloses range of services wherein more than one services (see Fig. 2, 6, col. 8, lines 10-64 “where providing the other network such as GSM network to allowed the message redirection of hand over network based on the request of mobile equipment”). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide above teaching by Lucidarme to Schwarz, in order backup or handover access of the networks.

**As to claim 2**, SCHWARZ further discloses the network according to claim 1, wherein said network unit comprises means for re-directing a user equipment to a second communication network (par [0022] “RNC 14 transmits to the UE a message which indicates that the UE is redirection to another network 20”), which is accessible for the user equipment (par [0022]), if said user equipment is using or intends to use a service that is temporarily not available in said first communication network (par [0022-0023] “note: a service that is temporarily not available can be takes into consideration load or other condition in the first network (UTRAN) 12 such as service delay, quality of service, bit rate”).

**As to claim 4**, SCHWARZ further discloses the network according to claim 2, wherein said means for re-directing are equipped to receive information regarding the priority of a requested service by the user equipment (par [0022, 0025] “note the priority of a requested service by the user equipment where the RNC network 14 consideration conditions such as service delay, quality of service then redirection to the other network 20, in response to the indicated capability of the UE”).

**As to claim 5**, SCHWARZ further discloses the network according to claim 4, wherein said means for re-directing are not operable if the requested service has an assigned lower priority than an already ongoing service of

said user equipment on said first communication network (par [0022, 0024-0025] “the RNC 14 determines, in response to the UE based on the condition such as service delay, quality of service provided to UE whether to operate in network UTRAN 12 or in another network”).

**As to claim 6**, SCHWARZ further discloses the network according to claim 1, wherein said means are equipped to be operable on detecting a service unavailability due to a network fault (par [0022, 0025]” note: unavailability due to a network fault can be determine under condition of transfer delays and error rate, and for reasons such as uplink and downlink capacity”).

**As to claim 7**, SCHWARZ further discloses the network according to claim 1, wherein said means are equipped to be operable on detecting a service unavailability due to a temporary congestion situation in the first communication network (par [0022, 0025] ”note: unavailability due to a temporary congestion situation can be determine under condition of transfer delays, error rate, uplink and downlink capacity”).

**As to claim 9**, SCHWARZ discloses a user equipment “Fig. 2B, items 10 UE” in a first cellular mobile communication network (Fig. 2B, items 12 UTRAN), the user equipment comprising: means for retrieving information about the availability status of at least a range of services that

are provided by said first communication network (par [0021-0022, 0025] "the RNC 14 determines, in response to the indicated capability of the UE whether to operate in the first network and/or other conditions such as service delay, quality of service, bit rate, or requested content to be provided to the UE 10") , means for indicting to said first communication network the priority of a requested service (par [0022, 0025] "note: the priority of a requested service by the user equipment where the RNC network 14 consideration conditions such as service delay, quality of service then redirection to the second network 20, in response to the indicated capability of the UE"). However, Schwarz unclearly discloses range of services wherein more than one services. Lucidarme clearly discloses range of services wherein more than one services (see Fig. 2, 6, col. 8, lines 10-64 "where providing the other network such as GSM network to allowed the message redirection of hand over network based on the request of mobile equipment"). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to provide above teaching by Lucidarme to Schwarz, in order backup or handover access of the networks.

**As to claim 10**, SCHWARZ further discloses the user equipment according to claim 9, whereby the user equipment comprises means for accessing services that are available in the first communication network by

using the facilities of said first communication network and comprises means for accessing network services (par [0021-0025] “the RNC 14 determines, in response to the UE based on the condition such as service delay, quality of service provided to UE whether to operate in network UTRAN 12 or in another network”), which have been indicated to be at least temporarily not available in the first communication network (par [0022]), by using the facilities of a second communication network (par [0022-0023] “note: a service that is temporarily not available can be takes into consideration load or other condition in the first network (UTRAN) 12 such as service delay, quality of service, bit rate, and provided to UE whether to second network 20 with the included information being used”).

**As to claim 11**, SCHWARZ further discloses the user equipment according to claim 9 comprising means for indicating its service availability status to the user of said user equipment (par [0021-0022] “the RNC 14 determines from the RRC connection request and specifically, in response to the UE whether to operate in the network”).

**As to claim 12**, SCHWARZ discloses a method of operating a wireless terminal comprising: the wireless terminal requesting or receiving a service from a first communications network (par [0021-0022] “in response to the UE whether to operate in the network”); receiving, in certain time



periods from the first communications network, updated availability information regarding the service from a first communications network (par [0022-0023] “note: a service that is temporarily not available can be taken into consideration load or other condition in the first network (UTRAN) 12 such as service delay, quality of service, bit rate, and provided to UE whether to second network 20 with the included information being used”); and the wireless terminal using the availability information to perform a switch to request or receive the service from a second communications network rather than from the first communication network when the availability information from the first communications network indicates that the service is not available from the first communications network (par [0022-0023] “UE are connected to the other network after the message information has set-up”). However, Schwarz unclearly discloses that a switch or received the service from the second network. Lucidarme clearly discloses a switch or received the service from the second network (see Fig. 2, 6, col. 8, lines 10-64 “where providing the other network such as GSM network to allowed the message redirection of hand over network based on the request of mobile equipment”). Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to

provide above teaching by Lucidarme to Schwarz, in order backup or handover access of the networks.

**As to claim 13**, SCHWARZ further discloses the method of claim 12, further comprising periodically receiving the service availability information in system information broadcast to plural wireless terminals by the first communications network (par [0022]).

**As to claim 14**, SCHWARZ further discloses the method of claim 12, further comprising periodically receiving the service availability information in a dedicated message sent to the wireless terminal (par [0022]).

**As to claim 15**, SCHWARZ further discloses the method of claim 12, further comprising the wireless terminal indicating to the second communications network a priority level for the service (par [0022, 0025] “note the priority of a requested service by the user equipment where the RNC network 14 consideration conditions such as service delay, quality of service then redirection to the other network 20, in response to the indicated capability of the UE”).

**As to claim 16**, SCHWARZ further discloses the method of claim 12, further comprising obtaining from the updated availability information a reason for service unavailability (par [0020]).

**As to claim 17**, SCHWARZ further discloses the method of claim 12, further comprising obtaining from the updated availability information an estimated time interval for service unavailability (par [0020]).

### **Allowable Subject Matter**

3. Claim 8 is allowed.
4. Claim 3 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

### **Conclusion**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PHUOC DOAN whose telephone number is (571) 272-7920. The examiner can normally be reached on Mon-Tue, Thu-Fri.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, LESTER KINCAID can be reached on 571-272-7922. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/PHUOC DOAN/  
Examiner, Art Unit 2617